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MARTINDALE-HUBBELL AND
LEXIS/NEXIS, divisions of
REED ELSEVIER, INC.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

INHERENT.COM aka INHERENT, INC. Plaintiff, v. MARTINDALE-HUBBELL, LEXIS/NEXIS INC. and DOES 1 through 200 inclusive, Defendants.	No. C 05 3515 MHP **[PROPOSED]** **ORDER GRANTING DEFENDANTS' MOTION TO DISMISS COMPLAINT** Date: October 31, 2005 Time: 2:00 p.m. Courtroom: 15 Judge: Honorable Marilyn H. Patel Complaint Filed: July 29, 2005

The motion of defendants Martindale-Hubbell and Lexis/Nexis, divisions of Reed Elsevier, Inc. (collectively, "Defendants") to (a) dismiss the complaint of Inherent.com also known as Inherent, Inc. (collectively "ICI") filed on July 29, 2005 ("Complaint"), which was removed to this Court on August 30, 2005, or (b) in the alternative, to transfer this action pursuant to 28 U.S.C. § 1404 to the District of New Jersey where another action between the same parties is pending, or to dismiss the Complaint for failure to plead fraud with particularity under Federal Rule of Civil Procedure 9(b), came on regularly for hearing before this Court on October 31, 2005. Counsel for the parties appeared before the Court.

After considering the written and oral arguments and evidence submitted in support of and

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in opposition to Defendants' motion to dismiss or transfer and all other matters presented to the Court,

IT IS HEREBY ORDERED as follows:

1. Defendants' motion to dismiss ICI's Complaint in the present action pursuant to the "first to file" doctrine is hereby **GRANTED** and this Court declines jurisdiction in this matter as a matter of federal comity;

2. ICI's Complaint is hereby **DISMISSED WITHOUT PREJUDICE** and ICI is ordered to litigate its claims and defenses in the present matter in the previously filed action between the parties entitled, Reed Elsevier, Inc. v. Inherent.com, Inc. et al., pending in the United States District Court in the District of New Jersey, Docket No. 258305;

3. Defendants' motion to transfer this action pursuant to 28 U.S.C. § 1404 and motion to dismiss the Complaint pursuant to Federal Rule of Civil Procedure 9(b) are **DISMISSED WITHOUT PREJUDICE** in light of the Court's rulings herein as moot.

IT IS SO ORDERED.

DATED: _______________, 2005

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HONORABLE MARILYN H. PATEL
UNITED STATES DISTRICT COURT JUDGE

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